

**IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR (M.P.)**

W. P. No. of 2020(P.I.L.)

Petitioner : DEMOCRATIC LAWYERS' FORUM
THROUGH ITS PRESIDENT

Versus

- Respondents:**
1. **STATE BAR COUNCIL OF M.P.**
THROUGH ITS SECRETARY
HIGH COURT PARISAR
JABALPUR – 482001(M.P.)
 2. **BAR COUNCIL OF INDIA**
THROUGH ITS SECRETARY
21, ROUSE AVE INSTITUTIONAL AREA,
NEAR BAL BHAWAN, ROUSE AVENUE,
NEW DELHI -110002
 3. **UNION OF INDIA**
THROUGH NATIONAL DISASTER
MANAGEMENT AUTHORITY
SAFDARJUNG ENCLAVE , NDMA BHAWAN
A-1, BLOCK A1 NAUROJI NAGAR ,
NEW DELHI -110029
 4. **STATE OF M.P.**
PRINCIPAL SECRETARY,
DEPARTMENT OF LAW & LEGISLATIVE
AFFAIRS,
1ST FLOOR ,VINDHYA CHAL BHAVAN,
BHOPAL -462004(M.P.)
 5. **M.P.STATE DISASTER MANAGEMENT
AUTHORITY**
EKTA PARK , CHAR IMLI
BHOPAL – 462016 (M.P.)
 6. **THE REGISTRAR GENERAL,**
HIGH COURT OF MADHY PRADESH
PRINCIPAL SEAT AT JABALPUR
HIGH COURT PARISAR
JABALPUR – 482001(M.P.)
 7. **M.P.HIGH COURT BAR ASSOCIATION**
THROUGH ITS PRESIDENT

SILVER JUBLEE HALL,
HIGH COURT PARISAR,
JABALPUR – 482001 (M.P.)

8. **HIGH COURTS ADVOCATES BAR ASSOCIATION**
THROUGH ITS PRESIDENT
1ST FLOOR, HIGH COURT PARISAR
JABALPUR – 482001
9. **INDORE HIGH COURT BAR ASSOCIATION,**
THROUGH ITS PRESIDENT,
MP HIGH COURT PARISAR
INDORE-452001(M.P.)
10. **GWALIOR HIGH COURT BAR ASSOCIATION,**
HIGH COURT AT INDORE
INDORE -474011 (M.P.)
11. **DISTRICT BAR ASSOCIATION JABALPUR**
THROUGH ITS PRESIDENT/SECRETARY
DISTRICT COURT NEW BUILDING
JABALPUR – 482002(M.P.)

PUBLIC INTEREST LITIGATION UNDER ARTICLE

226 OF THE CONSTITUTION OF INDIA.

1. PARTICULARS OF THE ORDER AGAINST WHICH PETITION IS MADE:

The petitioner is not against any order passed by the any court of law but for issuing necessary direction / order to Respondents for hardship facing by advocates and its staff and employees of Bar Associations and the persons whose livelihood depend upon the judicial system.

1.1 Date of Order – **NIL**

1.2 Passed in - **NIL**

1.3 Passed by - **NIL**

1.4 SUBJECT MATTER IN BRIEF:

In December 2019, a pneumonia outbreak was reported in Wuhan, China. On 31 December 2019, the outbreak was traced to a novel strain of coronavirus, which was given the interim name 2019-nCoV by the World Health Organization (WHO), later renamed SARS-CoV-2 by the International Committee on Taxonomy of Viruses. Some researchers have suggested the Huanan Seafood Wholesale Market may not be the original source of viral transmission to humans.

As of 12 April 2020, there have been at least 113,296 confirmed deaths and more than 1,833,685 confirmed cases in the coronavirus pneumonia pandemic in all over the world. The virus has a 96% similarity to a bat coronavirus, so it is widely suspected to originate from bats as well. The pandemic has resulted in travel restrictions and nationwide / worldwide lockdowns in several countries including India.

The Hon'ble Prime minister of India first declared Janta Curfew for all over India and later on 24th March 2020 announced a 21 days lockdown to control the spread of virus suddenly.

In compliance of direction issued by central government the Hon'ble High court Jabalpur have issued a circular dated 25.4.2020 stating, there shall be no court work with immediate effect for three weeks up to 14.4.2020 in High Courts and subordinate courts in state of Madhya Pradesh. Now increased up to 3.5.20 since then, judicial working in the entire country has reduced its pace and is taking up matters of utmost urgency alone. The lockdown has adversely affected livelihood of nearly 1.5 lakh people who depend upon the judiciary in the state of Madhya Pradesh. The enormous effect is apparently visible on the profession of advocates and Munshi, clerk, peons, typist / computer operator (including court premises) working with advocates including employees of Bar Associations and AG employees.

We have given a detailed representation dated 31.3.2020 **(P-1)** to concerned respondents but no concrete action is come out till date. The advocates and its staff are at the verge of starvation. Now lock down increased up to 3.5.20. This will make the positions worse in the State for them.

Therefore this petition to interfere into the matter and direct the respondents to come out with immediate solid helps for the persons whose livelihood depend on judicial system (Advocate and its clerks/ Munshi /peons/ typists / computer operator (including working in court premises and staff of Bar Associations)AG office staff , either in the form of money or kind on the grounds mentioned in the petition.

2. THE ANTECEDENTS OF THE PETITIONER:

The petitioner is an unregistered association of advocates and fighting for rule of law and civil liberties since long(last 15 years) and through its president the petition is before the lordship. The forum has already raised number of matters of public interest and Hon'ble High Court of Madhya Pradesh Principal seat has already recognized the seriousness of the previous matters.

3. FACTS IN BRIEF , CONSTITUTING THE CAUSE:

3.1 In December 2019, a pneumonia outbreak was reported in Wuhan, China. On 31 December 2019, the outbreak was traced to a novel strain of coronavirus, which was given the interim name 2019-nCoV by the World Health Organization (WHO), later renamed SARS-CoV-2 by the International Committee on Taxonomy of Viruses. Some researchers have suggested the Huanan Seafood Wholesale Market may not be the original source of viral transmission to humans.

3.2 As of 12 April 2020, there have been at least 113,296 confirmed deaths and more than 1,833,685 confirmed cases in the coronavirus pneumonia pandemic in all over the world. The virus has a 96% similarity to a bat coronavirus, so it is widely

suspected to originate from bats as well. The pandemic has resulted in travel restrictions and nationwide / worldwide lockdowns in several countries including India.

- 3.3** The Hon'ble Prime minister of India first declared Janta Curfew for all over India and later on 24th March 2020 announced a 21 days lockdown to control the spread of virus suddenly.
- 3.4** In compliance of direction issued by central government the Hon'ble High court Jabalpur have issued a circular dated 25.4.2020 stating, there shall be no court work with immediate effect for three weeks up to 14.4.2020 in High Courts and subordinate courts in State of Madhya Pradesh. Now increased up to 3.5.20. Since then, judicial working in the entire country has reduced its pace and is taking up matters of utmost urgency alone. The lockdown has adversely affected livelihood of nearly 1.5 lakh people who depend upon the judiciary in the state of Madhya Pradesh. The enormous effect is apparently visible on the profession of advocates and Munshi, clerk, peons, typist / computer operator (including working in court premises) working with advocates including employees of Bar Associations, Staff of AG office .
- 3.5** We have given a detailed representation dated 31.3.2020 **(P-1)** to concerned respondents but no concrete action is come out till date. The advocates and its staff are at the verge of starvation. Now the government has suggested to increase to lockdown for two-three weeks more. This will make the positions worse in the State for them.
- 3.6** Therefore this petition to interfere into the matter and direct the respondents to come out with immediate solid helps for the persons whose livelihood depend on judicial system (Advocate and its clerks/ Munshi /peons/ typists / computer operator and staff of Bar Associations)etc., either in the form of money or in kind on the grounds mentioned below in the petition.

4. SOURCE OF INFORMATION:

The petitioner declares the source of information is the documents taken under in possession of petitioner. The facts are submitted on the basis of information collected from documents enclosed and collected by the petitioner personally.

5. NATURE AND EXTENT OF INJURY CAUSED / APPREHENDED:

The petitioner declares that there is great suffering by the persons whom livelihood is dependent on judicial system like advocates and staff of advocates, munshi. Clerks, typist, computer operation and peons and employees of Bar Associations, AG office staff etc., since from the date of lockdown in the State of Madhya Pradesh.

6. ISSUE RAISED WAS NEITHER DEALT WITH NOR DECIDED :

The petitioner declares that the issue neither raised/decided before / by this Hon'ble Court under the constitution nor before any other court.

7. ANY REPRESENTATION ETC. MADE:

The petitioner made representation before the respondents by letter dated 31.3.2020 through email. Please refer the **Annexure P-1** enclosed herewith.

8. GROUND :-

8.1 Because the Advocate Act 1961 , it's the responsibility of Bar Council of India and as well as the Sate Bar Councils to

ensure the welfare of advocates and smooth running of judicial system in the country and also to assist the needy Advocates. In every court the Bar Associations are also operational for welfare of advocate fraternity and its alliances.

8.2 Because the BCI and SBC are the body corporate under section 5 of Advocates Act 1961.

8.3 Because provisions are made under section 7 of Advocate Act 1961 prescribed –

“7. Functions of Bar Council of India.—

1[(1)] The functions of the Bar Council of India shall be—

- (a) [* * * * *]
 - (b) to lay down standards of professional conduct and etiquette for advocates;
 - (c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;
 - (d) to safeguard the rights, privileges and interests of advocates;**
 - (e) to promote and support law reform;
 - (f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;
 - (g) to exercise general supervision and control over State Bar Councils;
 - (h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;
 - (i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities 3[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf];
 - [(ia) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;
 - (ib) to organise legal aid to the poor in the prescribed manner;
 - (ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]
 - (j) to manage and invest the funds of the Bar Council;
 - (k) to provide for the election of its members;
 - (l) to perform all other functions conferred on it by or under this Act;
 - (m) **to do all other things necessary for discharging the aforesaid functions.**
- [(2) **The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of—**

- (a) giving financial assistance to organise welfare schemes for indigent, disabled or other advocates;
- (b) giving legal aid or advice in accordance with the rules made in this behalf;
- (c) establishing law libraries.

(3) The Bar Council of India may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.”

8.4 Because the State Bar Councils are provided the machinery for this purpose under section 6 of the Act 1961. –

“6. Functions of State Bar Councils.—

(1) The functions of a State Bar Council shall be—

- (a) to admit persons as advocates on its roll;
- (b) to prepare and maintain such roll;
- (c) to entertain and determine cases of misconduct against advocates on its roll;
- (d) to safeguard the rights, privileges and interests of advocates on its roll;
- [(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of this section and clause (a) of subsection (2) of section 7;]
- (e) to promote and support law reform;
- [(ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;
- (eee) to organise legal aid to the poor in the prescribed manner;]
- (f) to manage and invest the funds of the Bar Council;
- (g) to provide for the election of its members;
- [(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]
- (h) to perform all other functions conferred on it by or under this Act;
- (i) to do all other things necessary for discharging the aforesaid functions.

[(2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of—

- (a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;
- (b) giving legal aid or advice in accordance with the rules made in this behalf;

[(c) establishing law libraries.]

(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in subsection (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.”

8.5 Because its now duty of the authorities help the victims for smooth running of judicial system and timely justice to

common and poor man. **The complete lockdown is not the solution of the problem. Its in the jurisdiction of lordship to interfere into the matter under constitutional powers, for effective, fast and speedy remedy of the problem for this purpose. Now the situation is reaching to alarming stage as lock down increased upto 3.5.20 and there is possibility of increase of lock down.**

- 8.6** Because no concrete action is taken by authorities on the representation dated 31.3.2020 which is duly published in newspapers also. The copy was duly served to various authorities.
- 8.7** Because there seems to be sufficient funds with the State Bar Council of M.P. under Advocate Welfare Fund, it collects the huge amount during registration of advocates **or** it may be arranged by State of MP under Disaster Management Act 2005 which can be utilized as emergency measures for smooth running of judicial system in the State of Madhya Pradesh.
- 8.8** Because the Advocates and other victims like Munshis / clerks , typist , computer operator , peons of advocates staff; Advocate General Office staff ; photocopiers, typist, computer operators sitting in court premises are important are important part of smooth judicial system and they cannot be ignored and to be treated as part of the system for the purpose of financial help in this pandemic time.
- 8.9** **Because** the respondents to be called upon and require to explain the steps taken by them or to be taken by them to assist the smooth running of judicial system as well as financial assistance to needy persons whose livelihood is dependent on judicial system.
- 8.10** **Because** the advance notice is already served in advance by email/ whatsapp / physically wherever possible. The proof will be submitted later stage.
- 8.11** **Because** the necessary applications is attached with the petition which require to hear matter through video conferencing or immediately like ignoring the default if

arise any ; to deposit of required court fees; noterising the affidavit etc.

8.12 Because in last 15 days the total shut down of judiciary has badly affected the legal fraternity and the persons who are part of judicial system as mentioned earlier and that is the violation of fundamental rights as no primery steps taken by respondent till date. The respondents does not seems to be taking effective steps for removal of problem and no information is provided after sending the representation to concern authorities.

8.13 Because this pandemic situation is disaster under the Disaster Management Act 2005 and is to be inquired what actions are taken or to be taken by respondents under the said provisions for smooth running of judicial system in the state of M.P. and to help victims effectively.

8.14 Because the other grounds may be mentioned during the course of hearing as required or permitted by lordship.

8.15 Because there are already an Act implemented in the State of Madhya Pradesh in the Name of The **Madhya Pradesh Adhivakta Kalyan Nidhi Adhiniyam 1983** (16 of 1983) under which there are already provisions for help of needy and indigent advocates.

8.16 Because representation is given to concerned authorities but no action is taken and matter is also affecting to common and poor man of the state as the judiciary has stopped to work. Therefore this petition under article 226 to take efficacious remedies and steps for removal of problem as mentioned in the petition.

9. DETAILS OF REMEDIES EXHAUSTED:

The petitioner declares that no efficacious remedy is available to the petitioner other than before the lordship.

10. DELAY IF ANY IN FILING THE PETITION AND EXPLANATION THEREFOR:

There is no delay in filing the petition.

11. RELIEF(S) PRAYED FOR :

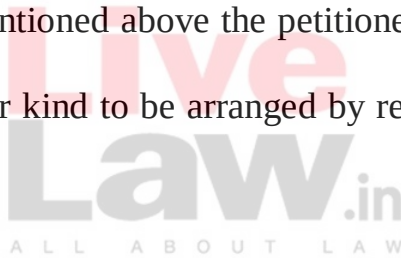
In view of the facts mentioned above the petitioner prays for the following relief (s):

1. To called upon respondents to explain the steps taken or to be taken, to provide the immediate help cash or in kind, through proper and fast channel, like directly in bank accounts to affected needy persons / victims who are dependent of justice delivery system- i.e., needy advocates, their staff –clerks, Munshies, typist, peons, employees of Bar Associations, typist / computer operator in court premises, employees of Advocate General Office etc., and to monitor the remedies and steps taken by respondent time to time , covering the whole issues as raised in the representation and in the grounds of the petition.
2. To direct the respondents to help or make proper system of social distancing for smooth running of judicial system in the court premises through online or otherwise as the pandemic situation does not seems to be solve in coming six months and the closure of judicial system is affecting the common and poor man in the State of M.P.. It's also requested to direct the respondent to follow the provisions made in Disaster Management Act 2005 for emergency help in this pandemic situation;

3. **The hearing to be allowed through video conferencing on weekly basis** and the respondent may be permitted to file their counters through email and may assist the court through video conferencing available at its official website or on website of High court;
4. Any other order / or further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice."

12. INTERIM ORDER, IF PRAYED FOR:

In view of the facts mentioned above the petitioner prays that immediate financial help in cash or kind to be arranged by respondents as prayed in separate application.



13. CAVEAT:

That no notice of lodging a caveat by the opposite party is received.

JABALPUR

COUNSEL FOR THE PETITIONER

Date :

Ravindra Kumar Gupta